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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
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08/654,600 05/29/96 MIZELL

R 5383

EXAMINER

32M1/0402

KERKAM STOWELL KONDRACKI AND CLARKE
TWO SKYLINE PLACE
SUITE 600
5203 LEESBURG PIKE
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ROWAN, K
ATTY UNIT

PAPER NUMBER

3205

DATE MAILED: 04/02/97

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-12 is/are pending in the application.
- ☐ Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-4, 6, 8-12 is/are rejected.
- ☒ Claim(s) 5, 7 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4
- ☐ Interview Summary, PTO-413
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

Art Unit: 3205

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the entrance opening not touching the fins must be shown or the feature(s) cancelled from the claim(s). No new matter should be entered.

2. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 10-11, "while resting thereon at or near the ground" conflicts with the specification which states the trap is mounted on the ground and anchored by stakes. Deleting the above referenced phrase from claim 1 would overcome this rejection. Also, it is not clear how the entrance opening does not touch the fins?

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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4. Claims 1, 2, 3, 4, 6, 8, 9, 10, 11, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gross.

The patent to Gross shows a trap for insects having a bottom portion 1 having a plurality of elements 12, 13, 14, 15 cooperating along longitudinal axis to form planar fins extending axially from the longitudinal axis and upwardly from under bases to the narrower apices. The lines form a channel. Gross shows a top portion 5, 6, 50 forming an enclosed chamber except for an entrance opening thereto positioned over and surrounding the upper end of the bottom portion such that no portion of the entrance opening touches the fins. Gross does not disclose the color of the bottom portion, but it would have been obvious to color the bottom portion predominantly of a color which reflects light having a wavelength which attracts the target species so they come to the trap. In reference to claim 2, the target species is a matter of design choice. In reference to claim 3, Gross shows the fins as triangular in shape. In reference to claim 4, Gross shows the fins as being 90 degrees apart but the exact angle would be determined by routine experimentation. In reference to claim 6, Gross shows four triangular fins. In reference to claim 8, the height of the bottom portion is a matter of design choice to be determined by routine experimentation. In reference to claim 9, Gross shows means 45, for anchoring the trap to the ground. In reference to claim 10,

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Gross does not disclose if the exterior and interior surfaces of the chamber are neutral colorwise to the target species, but it would have been obvious to have a color neutral chamber and an attractive entrance to draw the target species to the entrance to the trap. In reference to claims 11, 12, Gross shows a screen material which admits ambient exterior light into the interior of the chamber and is impervious to the passage of the target species.

5. The patents to Briese, Hardee, Shapiewsky, Hickman, Metzger, Kozlowski, Curry, Formby, Schrantz, Boyle, Weir, Higgins McDonough, Pugh, Boyd, Terline, Meadows, Hamilton, Kress and Williamson show other insect traps.

6. Any inquiry concerning this communication should be directed to Kurt Rowan at telephone number (703) 308-2321.


KURT ROWAN
PRIMARY EXAMINER
GROUP 8200

ROWAN/D.Z.R.

March 20, 1997